

## Message Text

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ACTION EB-08

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INFO USMISSION GENEVA

AMEMBASSY TAIPEI

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E.O. 11652: N/A

TAGS: ETRD, TW

SUBJECT: US/ROC (MTN) TRADE NEGOTIATIONS: SECOND ROUND

1. SUMMARY. IN TWO AND A HALF DAYS OF BILATERAL TALKS INVOLVING BOTH TECHNICAL AND PLENARY SESSIONS, THE US AND THE ROC DISCUSSED A BROAD RANGE OF GENERAL MTN TOPICS AND SPECIFIC DETAILS RELATING TO REQUEST AND OFFER LISTS. THE MEETINGS WERE CONDUCTED IN A POSITIVE AMBIANCE OF MUTUAL UNDERSTANDING AND COOPERATION, AND A THIRD ROUND OF TALKS WAS AGREED UPON FOR SOME TIME DURING SEPT. 19 TO 25 TO CONTINUE THE SPECIFIC PRODUCT DISCUSSIONS AND TO BEGIN DISCUSSIONS ON THE LEGAL FORM AND TEXT OF THE TRADE AGREEMENT. END SUMMARY.

2. INITIAL PLENARY SESSION OPENED WITH US DEL REVIEWING FOR ROC THE CURRENT STATUS OF MTN TOPICS. IN RESPONSE TO A ROC QUESTION, THE US INDICATED THAT THE ROC COULD REALIZE MFN BENEFITS FROM THE US OFFER TO THIRD COUNTRIES ON PRODUCTS WHERE ROC WAS NOT PRINCIPAL SUPPLIER. THE US NOTED THE POSSIBILITY OF WITHDRAWAL OF OFFERS OR TACTICAL USE OF EX-OUTS

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WHEN SUFFICIENT RECIPROCITY NOT RECEIVED FROM COUNTRIES PRINCIPALLY SUPPLYING A GIVEN PRODUCT WHICH BENEFITED FROM US OFFER AND THE FACT THAT ROC INITIAL OFFER WAS NOT ADEQUATELY RESPONSIVE TO US REQUESTS. ROC ALSO RAISED IMPLICITLY THE IDEA OF NON-MFN CONCESSIONS, I.E., COUNTRIES NOT GRANTING BENEFITS TO ROC WOULD NOT BENEFIT FROM ROC LIBERALIZATION, BUT WOULD NOT AMPLIFY ON IT.

3. DISCUSSION THEN MOVED TO A CONSIDERATION OF THE ISSUES OF SELECTIVITY IN THE CONTEXT OF THE SAFEGUARD CODE AND THE NATURE OF PREFERENTIAL TREATMENT FOR LDC'S TO BE LEGALIZED UNDER THE GATT. US SOUGHT TO ALLAY ROC CONCERNS REGARDING THE DEGREE OF SELECTIVITY THAT WOULD BE EMBODIED IN A SAFEGUARDS CODE IN THE MTN. US ALSO NOTED ITS POSITION REGARDING THE LEGALIZATION IN THE GATT OF SPECIAL AND DIFFERENTIAL TREATMENT FOR LDC'S THAT AN ENABLING CLAUSE MUST INCLUDE A GRADUATION PRINCIPLE, BE AGREED UPON BY ALL PARTIES, AND NOT ALLOW PERMANENT DEROGATIONS FROM GATT OBLIGATIONS. US EXPRESSED AGREEMENT WITH ROC CONCERN THAT ENABLING CLAUSE NOT BE ALLOWED TO PERMIT LEGALIZATION OF EXCLUSIVE EC/LOME PREFERENTIAL ARRANGEMENTS. ROC EXPRESSED OPINION THAT GRADUATION SHOULD BE BASED UPON A NUMBER OF CRITERIA SUCH AS PER CAPITA GNP, TECHNOLOGICAL CAPABILITIES AND SOCIAL STATISTICS AND THAT, IN LIGHT OF THESE, ROC WAS PROBABLY ABOUT 8 TO 10 YEARS FROM STATUS AS A DC. US RESPONDED THAT GRADUATION ON

A COUNTRY BASIS MAY NOT BE APPROPRIATE IN ALL CASES AND THAT GRADUATION ON A SECTOR OR PRODUCT LINE BASIS MIGHT BE MORE USEFUL. IN RESPONSE TO ROC QUESTIONS, THE US DETAILED THE FAMILIAR DISTINCTIONS BETWEEN GSP CUTS AND MFN CONCESSIONS AND THE VALUE OF THE LATTER TO ADVANCED LDC'S SUCH AS ROC AS WELL AS THE BENEFITS DERIVED BY LDC'S FROM THEIR PARTICIPATION IN THE MTN.

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4. MOVING TO CONSIDERATION OF ROC/US OFFERS AND REQUESTS, THE ROC ELABORATED THE CRITERIA USED IN RESPONDING TO US REQUESTS FOR TARIFF REDUCTIONS. THESE INVOLVED THE NEED TO PROTECT DOMESTIC INDUSTRY, MAINTAIN REVENUE FROM TARIFFS, AVOID TARIFF DISPARITIES FOR GROUPS OF RELATED ROC IMPORTS, MAINTAIN EFFECTIVE PROTECTION FOR MORE PROCESSED GOODS, AND ENSURE THAT THE US IS THE PRINCIPAL BENEFICIARY OF ANY CONCESSION. THE US RESPONDED BY EXPRESSING THE NEED THAT SUCH CRITERIA BE EXERCISED WITH FLEXIBILITY ESPECIALLY IN VIEW OF THE CURRENT INADEQUACY OF THE ROC OFFER. THE US STRESSED THAT WHILE IT DID NOT EXPECT FULL RECIPROCITY, IT WAS NECESSARY TO ACHIEVE AN ACCEPTABLE BALANCE OF CONCESSIONS APPROPRIATE FOR AN ADVANCED LDC IN ORDER TO MAINTAIN THE US OFFER AND OFFSET PROTECTIONIST TENDENCIES IN THE US. THE ROC REJOINED BY POINTING OUT THAT WHILE THE ROC CANNOT MATCH THE US OFFER IN TERMS OF PRODUCT OR TRADE COVERAGE IN VIEW OF ITS RELATIVE DEVELOPMENT STATUS, IT UNDERSTANDS THE US POSITION AND IS DETERMINED TO MOVE IN THE DIRECTION OF TRADE LIBERALIZATION. IN THIS CONTEXT THE US SUGGESTED THAT THE ROC MIGHT EXPLORE THE POSSIBILITY OF STAGING ITS TARIFF CUTS ON CERTAIN PRODUCTS WHERE IMMEDIATE FULL IMPLEMENTATION WOULD BE DIFFICULT IN ORDER TO FACILITATE ACHIEVING A MORE ACCEPTABLE LEVEL OF RECIPROCITY.

5. AT THE CONCLUDING PLENARY SESSION THE ROC STATED ITS INTENTION TO IMPROVE ITS OFFER AS WELL AS ITS DIFFICULTY WITH MAKING CONCESSIONS IN SENSITIVE DOMESTIC AREAS. THE US NOTED THAT FOR A SUCCESSFUL AGREEMENT THE ROC MUST DEMONSTRATE THAT IT HAS TAKEN STEPS COMMENSURATE WITH ITS EXPORT COMPETITIVENESS AND THAT AT PRESENT THE ROC OFFER IS NOT SUFFICIENT. THE US ALSO NOTED IN A GENERAL FASHION THAT THERE WERE A NUMBER OF LEGAL QUESTIONS WHICH WOULD HAVE TO BE ADDRESSED IN THE TEXT OF A FORMAL AGREEMENT BETWEEN THE ROC AND THE US AND THAT BOTH SIDES SHOULD GIVE THOUGHT TO SUCH PROVISIONS IN PREPARATION FOR THE NEXT ROUND OF NEGOTIATIONS.

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6. FOLLOWING THE TABLING OF SUPPLEMENTAL REQUESTS BY THE US AND INDICATIONS BY THE US THAT ADDITIONAL REQUESTS MIGHT BE FORTHCOMING, BOTH SIDES ENGAGED IN A DISCUSSION OF NON-TARIFF MEASURE AREAS OF COMMON INTEREST SUCH AS THE US INSURANCE REQUEST OF THE ROC, IMPORT LICENSING, COMMERCIAL COUNTERFEITING, SUBSIDIES, DUMPING, AND CUSTOMS VALUATION. THE ROC INDICATED THAT THEIR PRELIMINARY RESPONSE TO THE US INSURANCE LICENSING REQUEST IS TO OFFER TO ALLOW US INSURANCE BROKERS TO OPERATE IN THE ROC AND URGE THAT US INSURANCE COMPANIES STRENGTHEN THEIR INVOLVEMENT IN THE ROC INSURANCE MARKET BY MEANS OF REINSURANCE BUSINESS. US DEL AGREED TO STUDY IMPLICATIONS OF ROC BROKERAGE

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OFFER BUT STATED THAT ROC PRELIMINARY OFFER APPEARED INSUFFICIENT AS US COMPANIES ARE ALREADY INVOLVED IN REINSURANCE MARKET AND WISH ACCESS TO ONLY A SEGMENT, I.E., FOREIGN SUBSIDIARIES, PERSONS AND JOINT VENTURES, OF ROC INSURANCE MARKET. AT ROC REQUEST US AGREED TO SUPPLY WRITTEN STATEMENT THAT US INTEREST IS IN A LIMITED SEGMENT OF INSURANCE MARKET, I.E., NOT INCLUDING LOCAL MARKET, AND AT US REQUEST ROC AGREED TO STUDY FURTHER THE US REQUEST ON INSURANCE LICENSES. CONCERNING IMPORT LICENSING, THE ROC STATED THAT LIBERALIZATION IS ALWAYS IT'S AIM AND THAT THE ROC HOPES SOMETIME IN THE FUTURE TO BE ABLE TO ELIMINATE IMPORT LICENSING. US DEL RESPONDED THAT ITS MAIN INTEREST IS THAT THE ROC NOT IMPAIR ITS CONCESSIONS THROUGH THE USE OF IMPORT LICENSING OR OTHER NTM'S AND THAT THIS QUESTION IS BEST ADDRESSED IN THE CONTEXT OF THE LEGAL AGREEMENT. IN THE CONTEXT OF COMMERCIAL COUNTERFEITING, THE ROC NOTED RECENT CHANGES IN ITS TRADEMARK LAW. WHILE PREVIOUSLY FOREIGN TRADEMARKS NOT REGISTERED IN THE ROC DID NOT RECEIVE PROTECTION, THE ROC IS NOW CONSIDERING PROVIDING PROTECTION FOR WELL-KNOWN TRADEMARKS EVEN IF UNREGISTERED IN THE ROC. THE ROC IS ALSO REVISING ITS LAW TO PROVIDE MORE SEVERE PENALTIES

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FOR COMMERCIAL COUNTERFEITING AND REQUIRE THAT THE LEGAL HOLDER OF A TRADEMARK GRANT AUTHORIZATION FOR EXPORTS TO BEAR THAT IDENTIFICATION. ACCORDING TO THE ROC, THE EFFECT OF THESE MEASURES IS TO PROVIDE CRIMINAL PENALTIES FOR COMMERCIAL COUNTERFEITING IN ROC DOMESTIC AND EXPORT MARKET, EVEN FOR WELL-KNOWN BUT UNREGISTERED TRADEMARKS. THE ROC THEN COMMENTED THAT WITH REGARD TO US SUBSIDY/COUNTERVAILING DUTY AND ANTI-DUMPING PROCEEDINGS IT WISHES TO REQUEST (A) THAT THE US GRANT THE ROC IMPARTIAL CONSIDERATION IN THE CONTEXT OF ITS DOMESTIC INVESTIGATIONS, (B) THAT ONLY ONE INVESTIGATION BE CONDUCTED FOR EACH CASE, (C) THAT THE CRITERION FOR CVD DETERMINATION BE THAT OF MATERIAL INJURY. THE US RESPONDED THAT IT ALREADY COMPLES WITH (A) AND THAT IT ATTEMPTS TO DO SO WITH (B) ALTHOUGH THERE ARE A NUMBER OF POSSIBLE RESPONSES TO SUBSIDIES AND DUMPING AVAILABLE TO US PRODUCERS. HOWEVER, THE US POINTED OUT THAT THESE INVESTIGATIONS ARE EXPENSIVE FOR US PRODUCERS ALSO, A FACTOR WHICH SHOULD LIMIT UNNECESSARY PETITIONS, THAT ROC FIRMS HAVE RARELY BEEN FOUND TO BE SUBSIDIZING, IMPLYING IMPARTIAL US CONSIDERATION, AND THAT THIS PETITION/INVESTIGATIONPROCEDURE REGARDING SUBSIDIZATIONAND DUPMING IS IMPORTANT IN PROTECTING ALIBERAL AS WELL AS FAIR TRADE REGIME. WITH REGARD TO (C), THE US STATED THAT THIS IS A MATTER OF US LAW AND ANY CHANGES HERE MUST AWAIT THE OUTCOME

OF THE SUBSIDIES CODE IN THE MTN. FINALLY, THE ROC STATED THAT IT WOULD HAVE DIFFICULTY COMPLYING WITH THE US REQUEST TO ELIMINATE ITS 20 PERCENT RIF UPLIFT DUE TO THE LOSS OF REVENUE WHICH WOULD BE INCURRED. THE ROC ESTIMATED THE POTENTIAL LOSS AT NT \$7 BILLION ANNUALLY OR 9 PERCENT OF TOTAL ANNUAL GOVERNMENT REVENUE. THE US RESPONDED BY NOTING THE IMPORTANCE OF ITS REQUEST AND THE US DESIRE TO HAVE THE ROC HARMONIZE ITS CUSTOMS VALUATION PRACTICES WITH THE CODE BEING DEVELOPED IN THE MTN. GIVEN THE IMPORTANCE OF THE US REQUEST FOR ELIMINATION OF THE CUSTOMS UPLIFT, THE US REQUESTED A POSITIVE RECONSIDERATION FOR THE ROC POSITION FOR THE NEXT ROUND OF NEGOTIATIONS.

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7. IN TWO TECHNICAL SESSIONS HELD BETWEEN THE US AND ROC, A DETAILED EXAMINATION WAS UNDERTAKEN OF US REQUESTS AND THE ROC OFFER. FOR ALL TARIFF REQUESTS INSUFFICIENTLY RESPONDED TO, THE US SOUGHT AN EXPLANATION FOR SUCH RESPONSES AND RECEIVED IN A NUMBER OF CASES ADDITIONAL OFFERS OR, MORE GENERALLY, A ROC COMMITMENT TO ATTEMPT TO IMPROVE ITS OFFER. IN THE LATTER SITUATION THE ROC OFFERED ONE OF TWO POSSIBILITIES: PRIORITY RECONSIDERATION OF THE US REQUEST OR RECONSIDERATION WITHIN THE CONTEXT OF ROC'S ANNUAL LEGISLATIVE TARIFF REVIEW. THE US, WHILE TENTATIVELY ACCEPTING THE ROC OFFER OF ANNUAL REVIEW, STRESSED THE CRUCIAL NATURE OF A FIRM COMMITMENT BY THE ROC TO REDUCE A GIVEN TARIFF AND THUS PROVIDE SOME SECURITY OF MARKET ACCESS IN ORDER FOR THAT CONCESSION TO BE INCLUDED IN THE OVERALL BALANCE OF AN AGREEMENT. POINTING OUT THAT ANNUAL REVIEW INVOLVED A COMMITMENT MERELY TO RECONSIDER AND NOT TO REDUCE, THE US AGAIN SUGGESTED THE UTILITY OF STAGING TARIFF REDUCTIONS, ESPECIALLY IN THE CASES OF DIFFICULT US REQUESTS AND IT TENTATIVELY AND UNOFFICIALLY ADVANCED THE IDEA OF A BINDING COMMITMENT TO EFFECT THE COMPLETE REDUCTION REQUESTED AT SOME POINT IN THE FUTURE. THE ROC, WHILE PLEADING THE DIFFICULTY OF STAGING TARIFF CUTS OR AGREEING TO FUTURE TARIFF REDUCTIONS DUE TO THE GREAT RELUCTANCE OF ITS LEGISLATORS TO COMMIT THEMSELVES TO FUTURE OBLIGATIONS, AGREED TO DEVOTE FURTHER STUDY TO THE US SUGGESTIONS IN LIGHT OF THE US NEED FOR GREATER SECURITY OF COMMITMENT WITH REGARD TO THEIR OFFER OF ANNUAL REVIEW.

8. COMMENT: IN BOTH PLENARY AND TECHNICAL SESSIONS, THE ROC DEMONSTRATED ITS DESIRE TO MEET US REQUESTS AND CREATE AN ATMOSPHERE OF MUTUAL UNDERSTANDING. WHILE THEY ARE APPARENTLY WARY OF BEING EXPECTED NO MATCH THE US OFFER IN PRODUCT AND TRADE COVERAGE TERMS, WE BELIEVE THEY HAVE BEEN FULLY SENSITIZED TO THE US NEED FOR AN ACCEPTABLE - EVEN IF LESS THAN FULL - RECIPROCITY BALANCE. AS THE ROC IS NOW AWARE IN DETAIL OF THE

MAJORITY OF US PRODUCT-SPECIFIC REQUIREMENTS FOR A SUCCESSFUL

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AGREEMENT, THE RESULT AWAITS THE OUTCOME OF THE THIRD NEGOTIATING SESSION IN LATE SEPTEMBER.

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## Message Attributes

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